

Remarks

The Office Action mailed July 13, 2005 has been carefully considered. Apparatus Claims 1-52; 53-76; and 77-150; and corresponding method Claims 151; 152; and 153 remain in the case with none of the claims being allowed.

The Office Action mailed July 13, 2005 rejected Claims 1-153 of the application under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,044,362 to Neely in view of U.S. Patent No. 6,826,542 to Virgin et al. This rejection is respectfully traversed as improper under 35 U.S.C. § 103(c).

35 U.S.C. § 103(c) provides that subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102, does not preclude patentability under section 103 where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The '362 Neely patent issued March 28, 2000, which is less than one year prior to the Applicant's filing date of December 19, 2000. Therefore, the Neely reference qualifies as prior art to the application only under 35 U.S.C. § 102(e). Specifically, 35 U.S.C. § 103(c), does not preclude patentability of the applicant's invention under section 103 if the subject matter of U.S. Patent No. 6,044,362 and the claimed invention were, at the time the applicant's invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Statement Concerning Common Ownership

R. Alan Neely was the sole inventor of the subject matter of U.S. Patent No. 6,044,362. Mr. Neely subsequently formed the InvoiceLink Corporation and served as its President. On December 8, 1998, Mr. Neely assigned his entire interest in the invention described in U.S. Patent Application Serial No. 08/925,344 filed September 8, 1997, which later issued as U.S. Patent No. 6,044,362, to InvoiceLink Corporation.

BCE Emergis Technologies, Inc. subsequently acquired InvoiceLink Corporation in the Fall of 2000. Pursuant to the Purchase Agreement dated about August 28, 2000, InvoiceLink Corporation assigned U.S. Patent No. 6,044,362 to BCE Emergis Technologies, Inc.

In the present case, R. Alan Neely, J. Scott Boulette, Joshua B. Fallon, Bartholomew Coan, and James C. Wrather jointly invented the subject matter of the present application as employees of InvoiceLink Corporation. Then, under the terms of the Purchase Agreement, each were subsequently under an obligation to assign the subject matter to BCE Emergis Technologies, Inc. at the time of its filing in December 2000 after U.S. Patent No. 6,044,362 was assigned to BCE Emergis Technologies, Inc. as part of the Purchase Agreement of August 2000.

The present invention was obligated to assignment to the same company as U.S. Patent No. 6,044,362 was obligated to assignment. Accordingly, the Neely reference cannot preclude patentability of the claimed inventions under 35 U.S.C. § 103(c), and that patent must be removed as a prior art reference.

The Applicant submits that by this amendment he has placed the case in condition for immediate allowance and such action is respectfully requested. However, if any issue remains unresolved, Applicant's attorney would welcome the opportunity for a telephone interview to expedite allowance and issue.

Respectfully submitted,



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CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST-CLASS MAIL, IN AN ENVELOPE ADDRESSED TO: **COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450**, ON NOVEMBER 13, 2005

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Signature

November 14, 2005

Date of Signature